

EXHIBIT 6

CAUSE NO. 21-DCV-287142

JACKIE NGUYEN,	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	FORT BEND COUNTY, TEXAS
	§	
INSPECTIONS NOW, INC.,	§	
	§	
<i>Defendant.</i>	§	434 TH JUDICIAL DISTRICT

PLAINTIFF’S FIRST AMENDED PETITION

Plaintiff, Jackie Nguyen (“Ms. Nguyen”), files this Original Petition against Defendants Inspections Now, Inc. (“Inspections Now”) and Floor and Decor Outlets of America, Inc. (Floor and Decor) (collectively “Defendants”) as follows:

I.

OVERVIEW

1. In February 2021, a fire erupted from the Plaintiff’s fireplace killing four people.

II.

DISCOVERY CONTROL PLAN

2. Under Rule 190 of the Texas Rules of Civil Procedure, Plaintiff requests that all discovery for this matter be conducted pursuant to a Level II Discovery Control Plan.

III.
PARTIES

3. Plaintiff, Jackie Nguyen, is the surviving mother of O.N., E.N., and C.N. She is an individual residing in Fort Bend County, Texas and brings this suit individually against Defendant.

4. Defendant Inspections Now, Inc., is a corporation located in and doing business in the state of Texas. Inspections has been served and made an appearance.

5. Defendant Floor and Decor Outlets of America, Inc. is a foreign corporation that conducts substantial business in Texas. Floor and Decor Outlets of America, Inc. may be served via its registered agent, C T Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

IV.
JURISDICTION AND VENUE

6. The claims asserted arise under the common laws of Texas. This Court has jurisdiction and venue is proper because all or substantially all of the events giving rise to the claims asserted in this lawsuit occurred in Fort Bend County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002.

V.
BACKGROUND AND FACTS

7. This lawsuit is necessary because of tragic fire that killed four people in Fort Bend County, Texas.

8. Before the house was purchased, Defendant Inspections Now was hired to perform a complete inspection of the Property. The inspection report (“Report”) indicated the functionality and safety of the fireplace and chimney on the Property, and expressly represented that the “unit appears operable.” Plaintiff relied upon this report.

9. Plaintiff also remodeled much of the home, including the living room and the fireplace, therein. Plaintiff purchased wood paneling from Defendant Floor and Decor to be installed surrounding the fireplace. Floor and Decor knew Plaintiff was using the paneling for the fireplace and failed to warn Plaintiff of the danger of using the wood paneling to finish the exterior wall of the fireplace.

10. On February 15, 2021, it is believed that the fireplace at the Plaintiff’s home was lit and that the wood paneling from Floor and Decor subsequently caught fire and spread to the rest of the Property, killing four people.

VI.

CAUSES OF ACTION

A. Negligence against Inspections Now.

11. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

12. Inspections Now owed a legal duty to Ms. Nguyen to act as a reasonable person would in performing a proper chimney and fireplace inspection. The Chimney Safety Institute of America sets forth industry standards for chimney inspections and requires inspectors to perform a Level II chimney inspection upon the sale or transfer of a property.

13. Inspections Now breached its duty to Ms. Nguyen and its negligence caused her injuries when it failed to properly inspect the Property.

B. Negligence and Products Liability against Floor and Decor.

14. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

15. Floor and Decor owed a legal duty Ms. Nguyen to act as a reasonable person would in recommending wall paneling for the exterior wall of a chimney and to warn Ms. Nguyen of the danger of using any particular paneling.

16. Further, Floor and Decor sold Ms. Nguyen defective wall paneling. The paneling was not fit for its intended use, and Floor and Decor failed to warn Ms. Nguyen of the dangers of using the wood paneling for the exterior wall of the chimney or to recommend safer alternatives. Floor and Decor knew, or should have known, Ms. Nguyen intended to use the paneling for the exterior wall of her chimney, yet they still did not warn Ms. Nguyen of the danger or recommend safer alternatives.

17. Floor and Decor breached its duty to Ms. Nguyen and its negligence caused her injuries when it failed to properly recommend safe paneling for the exterior wall of Ms. Nguyen's chimney.

C. Wrongful Death against all Defendants.

18. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

19. The acts and failures to act by Defendants proximately caused the fire which ultimately destroyed the Property and caused the Decedents' untimely deaths.

20. Under § 71.022 of the Texas Civil Practice and Remedies Code, Ms. Nguyen is entitled to recover for the death of Decedents and damages suffered, including, but not limited to, the loss of companionship, pain, and suffering, and mental anguish in the past and future.

VII.

DEMAND FOR JURY TRIAL

21. Plaintiff demands a jury trial.

VIII.

TEXAS RULES OF CIVIL PROCEDURE RULE 47 STATEMENT

22. Under Rule 47 of the Texas Rules of Civil Procedure, Mr. Nguyen states that he seeks monetary relief in excess of \$1,000,000.00.

IX.

ALL CONDITIONS PRECEDENT

23. All conditions precedent to the causes of actions brought by Mr. Nguyen have occurred.

X.

CONCLUSION AND PRAYER

Plaintiff prays that this citation issue and be served on Defendant in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiff has judgment against Defendant, both jointly and severely, in a total sum in excess of the minimum jurisdictional limits of this Court, plus prejudgment and post judgment interests, all costs of Court, exemplary damages, and all such other and further relief, to which she may show herself justly entitled.

Date: October 19, 2021

Respectfully submitted,
ARNOLD & ITKIN LLP

/s/ Jason A. Itkin

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure on this 15th day of November 2021.

/s/ Jason A. Itkin

Jason A. Itkin

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Leticia Saavedra on behalf of Jason Itkin
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 Envelope ID: 59151181
 Status as of 11/17/2021 3:00 PM CST

Associated Case Party: Jackie Nguyen

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Associated Case Party: Inspections Now, Inc.

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